



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Orkand Communications, Inc.--Request for  
Reconsideration

**File:** B-240443.2

**Date:** August 20, 1990

Peter S. Lake, Esq., Heilig, McKenry, Fraim and Lollar, for the protester.

L. W. Layton, Jr., Department of the Army, for the agency.  
James M. Cunningham, Esq., and John F. Mitchell, Esq.,  
Office of General Counsel, GAO, participated in the  
preparation of the decision.

### DIGEST

Protest against alleged procurement improprieties leading to award of printing contract was properly dismissed as untimely filed under Bid Protest Regulations because protest was filed more than 10 working days after debriefing. 4 C.F.R. § 21.2(a)(2) (1990). Although the agency provided additional information to protester after debriefing pursuant to Freedom of Information Act request, that did not toll the filing deadline since that information did not relate to original bases of protest, and protester has not raised any new bases of protest.

### DECISION

Orkand Communications, Inc. has requested that we reconsider our July 17 dismissal of the company's protest against the Department of the Army's award of a contract to Program Services, Inc./Military Newspapers of Virginia (PMV) under request for proposals (RFP) No. DADT57-90-R-0008, issued for the printing, composition, and distribution of the Fort Eustis, Virginia, civilian-enterprise newspaper, "The Wheel."

We deny the request.

In Orkand's initial protest filed with us on July 16, it contended that the competition was primarily intended to cause the incumbent contractor, PMV, to improve its performance, and was not meant for the Army to select, in good faith, a new contractor. Orkand also alleged that it suspected that disclosures were made to PMV which gave it a

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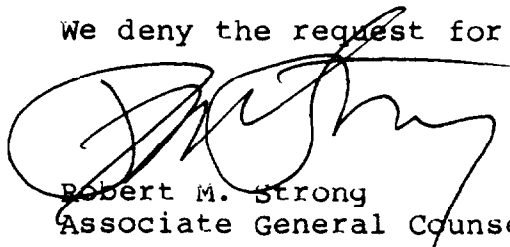
competitive advantage. Following the filing of the initial protest, Orkand informed our Office that the Army debriefed the company on June 28. We therefore considered Orkand to be on notice of the grounds of its initial protest as of June 28, at the latest, and we dismissed the protest as untimely filed under our Bid Protest Regulations (4 C.F.R. Part 21 (1990)) since the protest was filed more than 10 working days after the date the basis of the protest was known or should have been known. See 4 C.F.R. § 21.2(a)(3).

Orkand argues that we should not have considered its initial protest to have been untimely, primarily because the Army allegedly did not provide answers to Orkand's questions at the debriefing but furnished them only in a July 2 letter to Orkand received sometime after that date. Orkand therefore argues that its July 16 protest was timely since it was filed within 10 working days of the date on which Orkand received the July 2 letter.

The answers which the Army provided to Orkand in its July 2 letter did not further initial grounds of protest in any way, and Orkand has not advanced any new basis of protest based on these answers. Specifically, two of the answers had to do with the publication history of the newspaper; two others concerned the Army's reason for issuing the RFP instead of exercising an option under the prior contract and the Army's general approach in evaluating proposals; and the final two answers related to specific evaluation findings with respect to both the protester's and the awardee's proposal. Since the answers which Orkand received in the Army's July 2 letter relate neither to its initial grounds of protest nor to any new ground of protest, it is apparent that Orkand's receipt of this letter does not excuse the untimely filing of its initial protest.

Orkand also mentions that it has a Freedom of Information Act (FOIA) request for information pending with the Army which has not been answered. The filing of a FOIA request does not toll the filing deadline for Orkand's protest. See Consolidated Devices, Inc., B-232651.2, Dec. 8, 1989, 89-2 CPD ¶ 530. Any protest based upon information obtained pursuant to the FOIA request must be filed in accordance with our Bid Protest Regulations.

We deny the request for reconsideration.



Robert M. Strong  
Associate General Counsel